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August 27, 2013

Via ECF

Honorable Judge Joseph F. Bianco
United States District Court
Eastern District of New York
100 Federal Plaza
P.O. Box 9014
Central Islip, New York 11722

Re: Konrad v. Epley, et al.
Docket No. 12 CV 4021

Honorable Judge Bianco:

I am with the firm of Devitt Spellman Barrett, LLP, attorneys for the defendants, Robinson, Robinson and Epley. It is with much regret that I am compelled to write to the Court in response to yet another malicious and false letter from the attorney plaintiff in this case. Again, in response to said letter, I am compelled to ask this Court to impose monetary sanctions on the plaintiff for her continued frivolous and vexatious behavior in this litigation.

In the second paragraph of her letter (filed twice as DE 136 and DE 137), the attorney plaintiff expresses “astonishment” at the fact that I served a copy of Magistrate Judge Tomlinson’s August 19, 2013 Order upon her by mail. Of course, the Court will readily ascertain by review of the docket that Magistrate Judge Tomlinson directed me to serve a copy of her electronic order on the plaintiff *pro se* “forthwith” and to “file proof of service on ECF”. I am certain that Magistrate Judge Tomlinson issued her directive in the abundance of caution in light of the plaintiff’s status as a *pro se* litigant, and perhaps unaware of the fact that the plaintiff is also an attorney and has been using the electronic filing process throughout this case. Of

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course, neither I nor my office were inclined to quibble with Magistrate Judge Tomlinson's directive. The attorney plaintiff, however, chooses to not read these docket entries and, worse, makes baseless assertions and allegations of abuse of process based upon her purposeful ignorance of the Court directives.

The attorney plaintiff's next false allegation is contained in the second to last paragraph of her letter, in which she claims that, by virtue of my electronic filing under the Court bundle rule of the motion to dismiss on behalf of my clients, I omitted "essential papers" of the plaintiff's. The papers filed were the subject of a direct agreement in writing via e-mail between myself and the plaintiff, as is reflected in footnote 1 of the Reply Memorandum of Law submitted by this office in further support of our motion to dismiss (DE 104-21), which references Exhibit "D" to the Reply Declaration of the undersigned enclosing a copy of the e-mail exchange. It is abundantly clear that Magistrate Judge Boyle missed nothing, and that no papers were omitted.

It is most respectfully submitted that the plaintiff will continue to barrage this Court with misleading, inappropriate and vexatious applications in an effort to stave off dismissal of her case until she is stopped by the imposition of a monetary sanction against her. The undersigned is in possession of this Court's order of today's date (DE 138) denying our prior motion for sanctions. In light, however, of the plaintiff's continued misuse of the Court system by continuing to engage in vexatious litigation while this Court considers Magistrate Judge Boyle's Report and Recommendations suggesting the dismissal of her case, it is respectfully requested that the Court impose a monetary sanction upon the attorney plaintiff, along with a concomitant instruction that further abuses such as these will result in further, and larger, monetary sanctions.

The Court's consideration of this matter is greatly appreciated.

Respectfully submitted,

DEVITT SPELLMAN BARRETT, LLP

/S/

David H. Arntsen

DHA:eo'r
cc (Via ECF):
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United States District Court
Eastern District of New York

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